

Eligibility of persons with discharged felony convictions for firearm possession and handgun license

HB 1503 by Lucio (Hinojosa)

DIGEST: HB 1503 would have amended the current definition of criminal conviction, as used to determine who is eligible for a concealed handgun license, to exclude adjudications of guilt or orders of deferred adjudication that have been otherwise vacated, set aside, annulled, invalidated, discharged, voided, or sealed under state or federal law. This definition of criminal conviction also would have been added to the Penal Code provisions that prohibit persons convicted of felonies from possessing firearms. The bill also would have defined felony conviction, for the purpose of a concealed handgun license and in the Penal Code provisions dealing with firearms, as offenses other than those designated as misdemeanors and other than those that do not contain all the elements of a felony offense.

The bill also would have exempted assistant district attorneys, assistant criminal district attorneys, and assistant county attorneys from certain Penal Code restrictions on the carrying of guns if the assistant prosecutor held a concealed handgun permit.

GOVERNOR'S REASON FOR VETO:

“House Bill No. 1503 would have been an acceptable bill that expands Texans’ right to carry concealed handguns were it not for an 11th hour amendment that creates unintended consequences. The unintended consequences arise from the bill’s attempt to redefine a criminal conviction by excluding, among others, those who have been convicted of a felony and discharged from prison. The troublesome provision could result in ex-convicts who have completed their sentences for murder, rape, robbery or other violent crimes being allowed to possess firearms immediately upon release from prison. This provision also could jeopardize the reciprocity agreements Texas has with other states involving concealed handgun permits.”

RESPONSE: Rep. Eddie Lucio, III, the bill’s author, said: “All too often the assistant prosecuting attorneys of Texas who are charged with arguing the State’s case against criminals such as drug dealers, murderers, and rapists are subject to threats, not only on their lives but also the lives of their loved ones. These attorneys are public servants who do not have personal protection measures at their disposal beyond the courthouse in their day to day lives. The original version of HB 1503, which was overwhelmingly passed by the House and Senate, would have given assistant prosecuting attorneys across Texas the right to carry a concealed handgun and taken a step towards ensuring their personal safety outside the courtroom doors. We understand Gov. Perry’s interpretation of the language that was amended and we certainly appreciate his consideration of the bill. We will continue to call attention to this issue and to the severe need to protect those who open themselves up to violent threats in the fight for justice.”

Sen. Juan Hinojosa, the Senate sponsor, said: “The governor’s veto message on HB 1503 is not accurate. The governor asserts that a Senate amendment to HB 1503 would have had the unintended consequence of allowing ‘those who have been convicted of a felony and discharged from prison’ to obtain a concealed handgun license. But the Senate amendment would not have applied to felons who have served prison time.

Rather, under the plain language of the amendment, the term ‘discharge’ has a very narrow application to those who have not been convicted of a crime and who have not been sent to prison.”

NOTES:

HB 1503 was analyzed in Part One of the May 4 *Daily Floor Report*.

The provision in HB 1503 that would have exempted certain assistant district attorneys, assistant criminal district attorneys, or assistant county attorneys from certain Penal Code restrictions on the carrying of handguns was enacted as part of HB 2300 by Paxton, effective June 15, 2007.